IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

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WRIT PETITION NO : 5240 of 2005

Between:

Smt. P. Anjali @ Keerthana, W/o. Late P. Hanumantappa @ Isreal,
R/o. Qtr. NO. 43B, Railway Quarters, Adoni, Kurnool District.

..... PETITIONER

AND

1 The General Manager, Telecome District, B.S.N.L., Anantapur District.
2 The Accounts Officer (pay), C/o. General Manager, Telecom District, B.S.N.L., Anantapur District.
3 Miss. Swetha, D/o Late P. Hanumantappa, @ Isreal, minors,
rep by their next friend paternal Grand Mother, P. Narsamma, R/o. D.No. 27/788, Modinabad, Prakash Nagar,
Guntakal, Anantapur District.
4 Miss. Sujatha, D/o Late P. Hanumantappa, @ Isreal, aged 6 years, both are minors, rep. by their next friend paternal Grand Mother, P. Narsamma, R/o. D.No. 27/788, Modinabad, Prakash Nagar, Guntakal, Anantapur District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue order or orders, direction or directions, writ of writs, particularly one in the nature of "WRIT OF MANDAMUS" declare the action of the respondents 1 and 2 in not settling and paying the death and Family pension benefits of petitioners late husband is illegal, arbitrary, violative of Article 21 of the constitution of India and against the provisions of Pension Code, consequently direct the respondents to pay the death benefits and family pension from the date of death of petitioner's husband i.e., 13.2.2004 equally to the petitioner and respondent No. 3 & 4, and pass such other orders as are necessary.

Counsel for the Petitioner : MR.K.L.N.SWAMY

Counsel for Respondent Nos.1 & 2 : MR.B.NARASIMHA SARMA

Counsel for Respondent Nos.3 & 4 : Mr. K.Maheswara Rao

The Court made the following :

O R D E R:

This Writ Petition is filed by the petitioner seeking writ of mandamus declaring the action of the respondents 1 and 2 in not settling and paying the death and family pension benefits of the petitioner's late husband to the petitioner and other family members as illegal and violative of the provisions of the Constitution of India, and consequently to direct the respondents to pay the same.

2. According to the petitioner, she is the legally wedded wife one Mr. P. Hanumantappa @ Isreal, and their marriage was performed as per Christian Marriage Act at Guntakal, Anantapur district on 27.4.2002. To that extent, a certificate was also issued by the Church Authorities, Guntakal. The husband of the petitioner, while working as Telephone Mechanic at Kallur, died in the year 2004. It is also stated that originally the petitioner's late husband married one Sulochana, who died in the year 2000, and during their wedlock two children wore born, who are respondents 3 and 4 herein. Now after the death of the petitioner's husband, when she made a claim before the respondents 1 and 2 for the payment of death-cum-

terminal benefits, they are not being settled by the respondents in view of the cross-claim made by the respondents 3 and 4, through their guardian-grandmother. Hence, the petitioner has come up with the present Writ Petition.

3. At the time of hearing, the learned counsel for the petitioner contended that the petitioner was the legally wedded wife of late Hanumantappa, and as there were some disputes between the petitioner and her husband, on her complaint, a criminal case was also registered, which proves the case of the petitioner that she was the wife of late Hanumantappa, deceased employee, and therefore, the petitioner is entitled for the death benefits of her husband.

4. The claim of the petitioner is opposed by both the official and unofficial respondents. On behalf of the official respondents it is contended that after the death of the first wife, the employee has nominated his two minor daughters along with his mother, by filing Form No.3 on 24.07.2003, as required under Rule 54(12) of the CCS (Pension) Rules, 1972. If it is a fact that the petitioner was married by the deceased employee in the year 2002 itself, the employee ought not to have filed the said nomination form excluding the name of the petitioner. Therefore, the said nomination form clearly disproves the claim of the petitioner that she married the deceased employee.

5. On behalf of the respondents 3 and 4 it is contended that in view of the present Writ Petition, the official respondents are not paying the amounts to which the respondents 3 and 4, who are minors, are entitled. Hence, the learned counsel sought for appropriate directions to the official respondents to release the death benefits of the deceased employee.

6. Heard the both sides and considered the material on record.

7. If the petitioner is entitled for the death benefits as the wife of the deceased employee, it is for her to obtain a succession certificate, as contemplated under law. But, this Court cannot adjudicate upon the relationship between the parties in a Writ Petition, exercising jurisdiction under Art.226 of the Constitution of India.

8. Under the above circumstances, the Writ Petition is disposed of directing the petitioner to approach the appropriate forum for obtaining succession certificate. At

the same time, the respondents 1 and 2 are directed to pay to the respondents 3 and 4 and their grandmother, who is the mother of the deceased employee, the benefits to the extent of 1/4th each, retaining 1/4th of the benefits, in view of the claim made by the petitioner. If the petitioner fails to prove her case by producing necessary documentary evidence, like succession certificate, within a period of six months, the official respondents are directed to release the said retained 1/4th share also in favour of the respondents 3 and 4, and their grandmother, the nominees and successors of the deceased employee in equal shares.

9. The Writ Petition is disposed of accordingly. No costs.

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S.Ananda Reddy, J.

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To

1 The General Manager, Telecom District, B.S.N.L., Anantapur

District.
2 The Accounts Officer (pay), C/o. General Manager, Telecom

District, B.S.N.L., Anantapur District.
3 2 CD copies

THE HON'BLE MR. JUSTICE S. ANANDA REDDY

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